

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 48-2008-CF-0015606-O

DIVISION: 16

JUDGE: STAN STRICKLAND

CASEY MARIE ANTHONY,

Defendant.

**DEFENDANT'S MOTION TO CERTIFY TIMOTHY MILLER AS A MATERIAL
WITNESS IN THE INSTANT PROSECUTION, OR IN THE ALTERNATIVE
APPLICATION FOR SUBPOENA DUCES TECUM FOR DOCUMENTS IN THE
POSSESSION OF TEXAS EQUUSEARCH**

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys JOSE A. BAEZ and ANDREA D. LYON, and pursuant to the Uniform Act to Secure a Witness from Without a State in Criminal Proceedings moves this Court to certify Timothy Miller as a material witness in the instant prosecution for the purposes of an interstate subpoena duces tecum. As a less favored alternative, Miss Anthony respectfully asks this Court to issue a subpoena for documents in the possession of Texas EquuSearch under its own power.

In support of her motion, Ms. Anthony states as follows upon information and belief:

1. Texas EquuSearch is a 501(c)(3) organization headquartered in Dickinson, Texas.
2. Timothy Miller is the president of Texas EquuSearch.
3. In the fall of 2008, Texas EquuSearch conducted search-and-rescue operations in Orlando, Florida, in concert with the Orange County Sheriff's Office.
4. During the course of its business in Florida, Texas EquuSearch employees, members, and volunteers were engaged in searching for the missing child Caylee Marie Anthony.

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5. During these searches, Texas EquuSearch employees, members, and/or volunteers searched the wooded area around Suburban Drive, near Hidden Oaks Elementary School, in Orlando, Florida.
6. On December 11, 2008, the remains of a child were discovered at the edge of the wooded area near Hidden Oaks, just off Suburban Drive in Orlando, by a county employee who had previously called in three tips resulting in searches of the same area. The state has since identified the remains as those of the missing child Caylee Marie Anthony.
7. As President of Texas EquuSearch, and as director and coordinator of its portion of the search for Caylee Marie Anthony in the fall of 2008, Timothy Miller has knowledge of the search methods used and the locations searched.
8. As President of Texas EquuSearch, Timothy Miller is in possession of the records of its searches, maps of the areas searched, lists of members and volunteers who participated in the searches of the area where remains were ultimately found, video and/or photographic records of its search activities, and records of communications between Texas EquuSearch and Florida law enforcement.
9. The above-mentioned documents and information are material to Ms. Casey's capital murder charge because they directly pertain to the timing and manner of the arrival of the remains of Caylee Marie Anthony at the site where they were discovered.
10. This Court should grant Miss Anthony's Motion because Timothy Miller is a material witness in the instant prosecution, who is also in possession of documents and records material to Miss Anthony's defense both at trial and at any sentencing proceeding which might ensue.

11. If this Court does not certify Mr. Miller as a material witness, as a less favored alternative, it should grant her Application for a Subpoena Duces Tecum for Documents in the Possession of Texas EquuSearch because:

- A) Texas EquuSearch, while an out-of-state corporation, did business in Florida within the meaning of the Florida long-arm statute and so is within the subpoena jurisdiction of this Court; and,
- B) Texas EquuSearch acted as an agent of the State of Florida during the course of its business in Florida, receiving payment, equipment, support, and direction from Florida law enforcement agencies, and is therefore within the subpoena jurisdiction of this Court.

12. In support of her motion, Defendant presents the attached Memorandum of Law.

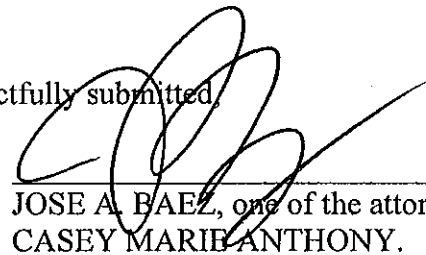
WHEREFORE, the Defendant, CASEY MARIE ANTHONY, respectfully requests that this Court grant her motion and certify Timothy Miller as a material witness in this case so that, pursuant to the Uniform Act to Secure the Attendance of a Witness Without the State in a Criminal Proceeding, she may serve him with a subpoena duces tecum for certain documents in his possession, to wit:

- 1) Any and all records in its possession relating to its searches of the area in and around Suburban Drive and Hidden Oaks Elementary School, Orlando, Florida;
- 2) Any and all video or photographic records of its searches of the above area;
- 3) Any and all maps, charts, diagrams, drawings, and other pictorial representations relating to its search activities in and around the above area;

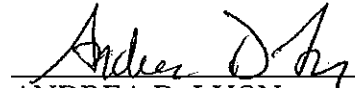
- 4) Any and all records of communications between Texas EquuSearch, its employees, members, and volunteers, and law enforcement made during the period of its search operations in Orlando, Florida; and
- 5) Any and all names, phone numbers, and other contact information of any employees, members, or volunteers with Texas EquuSearch who may have searched the area in and around Suburban Drive and Hidden Oaks Elementary School, Orlando, Florida;

In the alternative, Miss Anthony requests that the Court grant her application for a subpoena for the above-listed documents.

Respectfully submitted,



JOSE A. BAEZ, one of the attorneys for
CASEY MARIE ANTHONY.



ANDREA D. LYON, one of the attorneys
for CASEY MARIE ANTHONY.

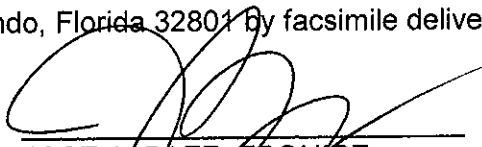
Dated: 7/16/09

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; and Mark Nejame, Esq., 189 S. Orange Ave Ste 1800, Orlando, Florida 32801 by facsimile delivery on this 16 day of July, 2009.



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